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02-278

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D C. 20554

CGB

OCT 6 2003

Control No. 0302747/aw

The Honorable John Warner
United States Senator
4900 World Trade Center
Norfolk, VA 23510

RECEIVED

OCT 10 2003

Federal Communications Commission
Office of the Secretary

Dear Senator Warner:

Thank you for your letter on behalf of your constituent, Mr. Bill Eiseman of Premier Properties GMAC Real Estate, regarding the Federal Communications Commission's (Commission or FCC) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, Mr. Eiseman expresses concern about the impact of the national "Do Not Call" list that goes into effect on October 1, 2003.

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive calls and faxes they believe they have neither solicited nor given their permission to receive.

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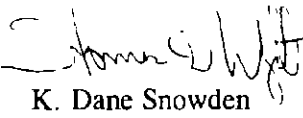
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Information regarding "telephone solicitations" is enclosed. The Commission has available an e-mail service designed to apprise consumers about developments at the Commission, to disseminate consumer information materials prepared by the Commission to a wide audience and to invite comments from other parties on Commission regulatory proposals. This free service enables consumers to subscribe and receive FCC fact sheets, consumer brochures and alerts, and public notices, among other consumer information. To subscribe, an individual would send an e-mail to subscribe@info.fcc.gov and in either the subject line or body of the message put: subscribe fcc-consumer-info first name last name (substitute their first and last name, for example, "subscribe fcc-consumer-info John Doe").

Information on all telecommunications-related issues can be accessed via the Internet from the Commission's Home Page located at <http://www.fcc.gov> and the Consumer & Governmental Affairs Bureau's web site link at <http://www.fcc.gov/cgb> or by calling 1-888-CALL-FCC. TTY users may call 1-888-TELL-FCC.

We appreciate Mr. Eiseman's comments. We have placed a copy of his correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,


K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

JOHN WARNER

ARMED SERVICES, CHAIRMAN
ENVIRONMENT AND PUBLIC WORKS
HEALTH, EDUCATION, LABOR AND PENSIONS
SELECT COMMITTEE ON INTELLIGENCE

United States Senate

September 12, 2003

Dear Ms. Atkinson:

I am writing to bring to your attention the enclosed comments from my constituent, Mr. Bill Eisman, regarding his questions about recent action to delay enforcement of the "Do Not Call" law. It is my understanding that the FCC has received a request on this issue from the Small Business Administration on behalf of those that have been adversely affected by these regulations.

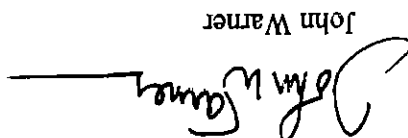
I would appreciate your reviewing this correspondence and preparing a reply on the stated concerns. Please send your reply to my state office.

The Honorable John Warner
4900 World Trade Center
Norfolk, VA 23510

Any information or clarification that your office might provide on this matter will be most helpful in my response to my constituent.

Thank you for your time and courtesy.

Sincerely,


John Warner

JW/edm

Enclosure(s)

17 SEP 2003 RCVD

Please reply to the office indicated. Washington ☐ Richmond ☐ Roanoke ☐ Abingdon ☐ Norfolk ☐

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*Copy to
3147*



PREMIER PROPERTIES
GMAC REAL ESTATE

September 3, 2003

Fax to

The Honorable John Warner
4900 World Trade Center
Norfolk, VA 23510

Dear Senator Warner

I am writing with concern regarding the "Do Not Call" law that goes into effect on October 1, 2003. As a Realtor, my ability to do my job is in jeopardy. My business relies on one-on-one communication for my specialty. I sell properties for out of town owners. I cannot afford access to the national Do Not Call lists. It is extremely rare that anyone is upset with me for placing my call and usually they are delighted that I can provide them with a current analysis of their home's worth.

I can understand their being rules for phone bank callers, auto-dialers and the like. My calls are made by hand during regular business hours.

The Small Business Administration has sent a letter to The Honorable Michael Powell at the Federal Communications Commission. They are concerned with the impact of this law on small businesses and estimate that 2 million jobs may be lost.

I strongly urge you to assist us with the Federal Communication Commission asking them to grant a request for a stay of the enforcement of this law. Below is from the above mentioned letter sent by the Office of Advocacy of the U.S. Small Business Administration:

The FCC should grant the requests for stay of the enforcement of the Order as it is in the public interest. Many business associations and trade organizations have filed requests for stay. Together, these parties represent millions of small businesses throughout the United States and across many industry sectors, the vast majority of which will be impacted by the Order.

The four-part test that the FCC traditionally uses for determining whether or not a stay should be granted is: (a) the petitioners will suffer irreparable harm if emergency relief is not granted, (b) the petitioners are likely to prevail on the merits, (c) any other interested parties will not be substantially harmed if the relief is granted, and (d) the public interest favors the relief. Advocacy believes that the facts addressed in this letter satisfy the test and urges the FCC to stay the effective date of the Order.

Thank you for your consideration of these matters, and please do not hesitate to contact me.

Sincerely,

Bill Eiseman

